

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9583 of 2014

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Poonam Devi wife of Shri Jai Krishna Mehta resident of village - Sirsiya, Village Panchayat - Potiya, P.S. Forbesganj, Sub - Division - Forbesganj, District - Araria

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj, Government of Bihar, Patna
2. The District Magistrate, District - Araria
3. The Sub - Divisional Officer, District - Araria
4. The District Panchayati Raj Officer, District - Araria
5. The Block Development Officer, Forbesganj, District - Araria
6. The Secretary, Gram Panchayat - Pothiya, Forbesganj, District - Araria
7. Chaman Lal Jha, Sarpanch, Gram Panchayat - Pothiya, District - Araria
8. Ruby Kumari Reshmi wife of Sudhir Kumar Mehta at Present Panchayat Secretary, Gram Panchayat - Pothiya, Block - Forbesganj, District - Araria

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Kundan Kumar Singh, Advocate Mr. Arun Kumar, Advocate
For the State	:	Mr. Anuj Kumar, A.C. to S.C.12
For Respondent No.8	:	Mr. Parmeshwar Mehta, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 13-09-2017

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for respondent no.8.

2. The petitioner has filed this writ petition for a direction to the respondents to appoint the petitioner on the post of Panchayat Secretary of Gram Panchayat, Pothiya.

3. Learned counsel for the petitioner submits that the petitioner got 423 marks and the respondent no.8 also got 423 marks out of 700 marks but in the additional subject, the petitioner got



higher marks than the respondent no.8. The petitioner is also older than respondent no.8. There is a rule that when two candidates get equal mark the person, who is older, should be given preference but ignoring this condition. Sarpanch, Gram Panchayat, Pothiya illegally appointed respondent no.8. The petitioner filed petition before the District Panchayati Raj Officer about the illegal appointment made by the Sarpanch. District Gram Panchayat Officer also directed the Sarpanch to appoint the petitioner.

4. Learned counsel for the State as well as learned counsel for the respondent no.8 submits that the petitioner was appointed in the year 2007 but he did not complain before the appropriate authority about the illegal appointment. According to Section 12 of Bihar Panchayat Raj Adhiniyam 6 of 2006 issued on 8.3.2007, it appears that the complaint should be made before the Sub Divisional Officer, who shall look into the matter and take decision within thirty days from the date of complaint. Section 13 of the Adhiniyam 6 of 2006 provides for appeal against the order of Sub Divisional Officer.

5. Having considered the submissions of the parties and the facts, I am disposing of this writ petition directing the Sub Divisional Officer, Araria to make enquiry on the petition of the petitioner filed within thirty days from the date of this order about the illegal appointment of the respondent no.8 and pass order within thirty days



from the date of presentation of the petition by the petitioner.

6. Accordingly, this writ petition stands disposed of.

(Prabhat Kumar Jha, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20-09-2017
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